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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

BLENDTEC INC., a Utah corporation,
Plaintiff,

vs.

BLENDJET INC., a Delaware corporation,
Defendant.

**BLENDTEC'S MOTION TO
EXPEDITE BRIEFING ON ITS
MOTION TO ENFORCE THE
PROTECTIVE ORDER AND TO
DISQUALIFY**

Civil No. 2:21-cv-00668-TC-DBP

Judge Tena Campbell
Magistrate Judge Dustin B. Pead

**[REDACTED FOR
PUBLIC FILING]**

Pursuant to DUCivR 7-1(a)(4), authorizing the shortening of time for briefing, Plaintiff Blendtec Inc. (“Blendtec”) hereby requests that briefing on its Motion to Enforce The Protective Order and to Disqualify Patrick McGill and Sheppard Mullin (“Motion”) be expedited on the

ground that Defendant Blendjet Inc.’s lead litigation counsel, Patrick McGill (“McGill”) currently has access to a substantial amount of Blendtec’s highly sensitive AEO information to which he is not entitled. Continued access to highly sensitive information by McGill, who is not a Qualified Recipient under the terms of the Standard Protective Order, poses great risk of harm to Blendtec.

The parties have met and conferred, and have requested that Sheppard Mullin suspend McGill’s access to Blendtec’s or third parties’ AEO information, and thus far Sheppard Mullin has not agreed to do so. *See Exhibit 1.* (If that changes, Blendtec will advise the Court.) Thus, Blendtec requests expedited briefing.

As set forth in the Motion and the accompanying declaration of Tamara Kapaloski (“Kapaloski Decl.”), which Blendtec incorporates herein, McGill has access to Blendtec’s AEO documents because he actively concealed his long-standing role (General Counsel) and relationship (████████) with Blendjet throughout this case and despite multiple opportunities where disclosure should have been made. *See* Kapaloski Decl. at ¶¶2-54. Had McGill’s role and ██████████ with Blendjet been disclosed, Blendtec would have immediately sought to amend the standard protective order or to enforce its terms to prohibit McGill from accessing Blendtec’s AEO information. But, Blendjet failed to produce the documents disclosing McGill’s general counsel role until February 10 and February 24, 2023 (*id.* at ¶¶22-29), and did not produce any documents disclosing that McGill is ██████████ until March 31, 2023. *Id.* at ¶53. Upon discovering these facts, Blendtec immediately attempted to discover information related to McGill’s role by serving subpoenas on McGill and Sheppard Mullin. *Id.* at ¶¶33-46. Blendjet, McGill, and Sheppard Mullin delayed, stonewalled, and ultimately refused to produce even a single document in response to the subpoena. *Id.* at ¶¶47-52. Based on the limited discovery that Blendtec has on this issue,

Blendtec believes that McGill should never have had access to Blendtec's AEO. Blendtec and Blendjet are direct competitors in the blending industry. Every day that goes by is an additional day that a Blendjet insider has access to a mountain of highly sensitive AEO information.

Based on this, Blendtec requests that the deadline for Blendjet to file a response to this Motion be set for May 9, and that Blendtec's deadline to file a reply be set for May 16. Blendtec also requests expedited consideration of the Motion. To the extent that the Court believes a hearing would be beneficial to its resolution of the Motion, Blendtec also respectfully requests that a hearing on the Motion be set as promptly as may be practicable under the circumstances.

In the alternative, to the extent that the Court declines to expedite briefing as set forth herein, Blendtec respectfully requests that the Court stay Blendtec's obligation to produce additional AEO documents until resolution of the Motion, and requests that the Court order that McGill not use or access Blendtec's information designated AEO.

DATED this 2nd day of May, 2023.

DORSEY & WHITNEY LLP

/s/ *Tamara L. Kapaloski*
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of May, 2023, a true and correct copy of the foregoing document was served on counsel of record via the Courts CM/ECF System which sent notice to counsel of record:

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